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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
THABO SEFOLOSHA,

Plaintiff,

Action No. 1

- against -

Case No.  
16 Civ. 2564  
(JMF)

P.O. JOHN PAUL GIACONA, P.O. JORDAN  
ROSSI, P.O. RICHARD CASTER, P.O.  
DANIEL DONGVORT, P.O. MICHAEL  
O'SULLIVAN, and THE CITY OF NEW YORK,

Defendants.

-----x  
(Caption continued on next page.)

EXAMINATION BEFORE TRIAL of the Defendant,  
POLICE OFFICER MICHAEL O'SULLIVAN, taken  
pursuant to Order, held at the law offices of  
JAROSLAWICZ & JAROS, PLLC, 225 Broadway, 24th  
Floor, New York, New York 10007, on November  
17, 2016, commencing at 10:00 a.m., before  
KAREN VIGGIANO, a Shorthand Reporter and Notary  
Public within and for the State of New York.

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
PERO ANTIC,

Plaintiff,      Action No. 2

-against -

Case No.  
16-cv-2425  
(JMF)

THE CITY OF NEW YORK, POLICE  
OFFICER RICHARD CASTER,  
individually and in his capacity  
as a member of the New York City  
Police Department, POLICE OFFICER  
PAUL GIACONA, individually and in  
His capacity as a member of the  
New York City Police Department,  
POLICE OFFICER DANIEL DONGVORT,  
individually and in his capacity  
As a member of the New York City  
Police Department, POLICE OFFICER  
MICHAEL SULLIVAN, individually and  
in his capacity as a member of the  
New York City Police Department,  
and JOHN and JANE DOES, said names  
being fictitious and intended to  
represent individual officers,  
members, agents, servants and/or  
employees of the New York City  
Police Department in their  
Individual and official capacity,

Defendants.

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BY: MATTHEW MODAFFERI, ESQ.

1 P.O. M. O'Sullivan

2 toward Tenth Avenue ahead of Mr. Sefolosha?

3 A I believe so.

4 Q Do you understand my question?

5 A Yes, I go to Tenth Avenue to  
6 assess everyone, just to make sure there's no  
7 problem, people moving, cabs are not stacking  
8 up.

9 Q At the time you get to the corner  
10 of 10th, Mr. Sefolosha would be closer to 9th?

11 A Yes, I believe he was behind me.  
12 I wasn't interacting with him, so I moved. He  
13 wasn't my focus of my attention.

14 Q What happens at the corner when  
15 you get there?

16 A Stood on the corner for, I think,  
17 a couple minutes, just made sure cabs are  
18 moving, people were moving, no problems, no  
19 fights.

20 And at this time Mr. Sefolosha  
21 comes back on Tenth Avenue. I see him walk up  
22 Tenth Avenue. I am looking down Tenth Avenue  
23 south and then I believe I saw out of the  
24 corner of my eye they started fighting with  
25 him, so I went to assist in the arrest.

1 P.O. M. O'Sullivan

2 Q So let me break that down a little  
3 bit.

4 You see Mr. Sefolosha take a right  
5 and turn the corner?

6 A I see him on Tenth Avenue. I  
7 don't believe I saw him turn the corner.

8 Q Walking further away from?

9 A Walking north on Tenth Avenue.

10 Q Which would have been further away  
11 from the crime scene?

12 A Yes.

13 Q So as he's walking further away  
14 from the crime scene do you hear him say  
15 anything?

16 A No.

17 Q Do you hear anyone else say  
18 anything to him?

19 A No.

20 Q Do you see Mr. Sefolosha do  
21 anything in particular?

22 A No, I wasn't focused on him. I  
23 wasn't paying attention to him.

24 Q So the next thing you know  
25 officers are engaged physically with him?

1 P.O. M. O'Sullivan

2 A Yes.

3 Q When you noticed him out of the  
4 corner of your eye, do you notice any officers  
5 around him?

6 A Not that I recall. I mean, it was  
7 brief. Like I said, out of the corner of my  
8 eye.

9 Q When you see the officers  
10 physically interacting with him, who do you see  
11 physically interacting with him?

12 A I don't recall. Police officers  
13 in uniform so I went to assist.

14 Q Are some of the police officers  
15 taller than others?

16 A I don't recall.

17 Q You don't recall if any of the  
18 officers you worked with are taller than other  
19 officers you worked with?

20 A I don't recall who was directly  
21 involved. I just know police officers in  
22 uniform and I went to help.

23 Q Are some of the officers you work  
24 with taller than other officers you work with?

25 A In general?

1 P.O. M. O'Sullivan

2 Q What happens next?

3 A We begin trying to handcuff Mr.  
4 Sefolosha in the street.

5 Q Just describe, if you can, break  
6 it down who's doing what, every action that you  
7 can remember.

8 A I don't recall exactly. What I  
9 know, he had his arm straight out. He was  
10 refusing to be put in handcuffs. He was  
11 yelling.

12 Q What did you hear him yelling?

13 A I don't recall exactly.

14 Q Do you recall the word "relax"?

15 A No.

16 Q Do you recall him yelling anything  
17 aggressive, like "I'm going to get the police"  
18 or "FU" or anything like that?

19 A Not that I recall.

20 Q You can't recall anything that Mr.  
21 Sefolosha yelled?

22 A That he was yelling, no.

23 Q And you can't tell us whether or  
24 not it was aggressive or cries for help?

25 A I believe it was loud. I don't

1 P.O. M. O'Sullivan

2 You can answer.

3 A No.

4 Q That didn't occur to you? After  
5 watching the video, did it occur to you?

6 A No.

7 Q Does it occur to you now?

8 A No.

9 Q While Mr. Sefolosha is being  
10 arrested, what happens? You said you came over  
11 to assist. Can you describe what, if anything,  
12 you did?

13 A We were trying to put him in cuffs  
14 and the other defendant, Mr. Antic, grabbed me  
15 on my right shoulder as we were trying to  
16 effect the arrest, diverting my attention from  
17 what I was trying to do.

18 Q Now, when you say "grabbing," can  
19 you describe what you mean by "grab"?

20 A Hand on my shoulder.

21 Q He didn't clench your shoulder,  
22 correct?

23 A Hand down on shoulder.

24 Q My question was: Did he clench  
25 your shoulder?



1 P.O. M. O'Sullivan

2 shoulder?

3 A Yes, I found that out.

4 Q You didn't learn that until  
5 yesterday?

6 A No.

7 Q You didn't testify at the trial in  
8 this case?

9 A No.

10 Q Why?

11 A I was on vacation.

12 Q Where?

13 MR. MODAFFERI: You can answer.

14 A I went to Mexico.

15 Q Did the district attorney's office  
16 know you were on that vacation?

17 A She called me and I told her, yes.

18 Q Any other reason why you didn't  
19 testify?

20 A That's it.

21 Q Did you contemplate changing your  
22 vacation?

23 A No.

24 Q Did the defendant placing his hand  
25 on your shoulder, the defendant, meaning Mr.

1 P.O. M. O'Sullivan

2 Antic, make it impossible for you to assist in  
3 the arrest of Mr. Sefolosha?

4 A Diverted my attention, yes.

5 Q For how long did it divert your  
6 attention?

7 A Until I pushed him.

8 Q How many seconds would you say,  
9 two, three?

10 A A few.

11 Q Do you think that, you know, a  
12 bird flies by, you look at a bird, it stops you  
13 from arresting somebody for one second, would  
14 you say the bird diverted your attention?

15 MR. MODAFFERI: Note my objection.  
16 You can answer.

17 A I think it's different.

18 Q But whether it's different or not,  
19 would the bird have diverted your attention?

20 A If it landed on my shoulder I  
21 believe so.

22 MR. MODAFFERI: Same objection.

23 Q Would a bird landing on your  
24 shoulder make it difficult for you to arrest  
25 Mr. Sefolosha?

1 P.O. M. O'Sullivan

2 A Yes, it was as I described.

3 Q And when you testified in the CCRB  
4 hearing and said that he put his hand on your  
5 shoulder that was not accurate either?

6 MR. MODAFFERI: Note my objection  
7 to "either."

8 You can answer.

9 A He wasn't the subject in my CCRB.

10 Q That wasn't my question.

11 My question was: When you  
12 testified that at the CCRB hearing Mr. Antic  
13 put his hand on your shoulder, was that  
14 accurate or not?

15 A Yes, for that CCRB I was  
16 testifying for, yes.

17 Q When Mr. Antic put his hand on  
18 your shoulder, did he say anything?

19 A Not that I recall.

20 Q Did you say anything to him?

21 A Not that I recall.

22 Q And it's your belief that Mr.  
23 Antic touching your shoulder in any way  
24 interfered with your ability to arrest Mr.  
25 Sefolosha?

1 P.O. M. O'Sullivan

2 A Yes.

3 Q How so?

4 A Diverted my attention from what I  
5 was trying to do.

6 Q How long did he divert your  
7 attention for?

8 A A few seconds.

9 Q Do you know if he asked you any  
10 questions?

11 A Not that I recall.

12 Q Did he ask you for directions?

13 A Not that I recall.

14 Q You testified that when he touched  
15 your shoulder you pushed him; is that right?

16 A Yes.

17 Q You pushed him down to the ground?

18 A I pushed him away from me.

19 Q Did he land on the ground when you  
20 pushed him?

21 A Yes.

22 Q What part of his body hit the  
23 ground?

24 A I did not see.

25 Q Do you know if Mr. Antic got back

1 P.O. M. O'Sullivan

2 up after you pushed him?

3 A No, he did not.

4 Q He stayed on the ground?

5 A Yes.

6 Q Did he say anything to you or  
7 touch you in any way while he was on the  
8 ground?

9 A No.

10 Q At any time?

11 A No.

12 Q While he was on the ground after  
13 you pushed him, did he in any way interfere  
14 with your ability to arrest Mr. Sefolosha?

15 A No.

16 Q And did you fill out any paperwork  
17 with regard to Mr. Sefolosha's arrest?

18 A No, besides my memo book.

19 Q So not a complaint, not a charge,  
20 anything like that?

21 A For Mr. Sefolosha, no.

22 Q At the time that you were  
23 participating in the arrest of Mr. Sefolosha,  
24 how many other officers were arresting him at  
25 that time?

1 P.O. M. O'Sullivan

2 A I don't recall.

3 Q Was it more than one?

4 A Yes.

5 Q More than two?

6 A I believe so.

7 Q More than three?

8 A I believe so.

9 Q More than four?

10 A I don't recall exact numbers.

11 Q Have you ever shaken anyone's hand  
12 before?

13 A Yes.

14 Q The amount of force used to shake  
15 a hand, do you think that's excessive?

16 A No.

17 Q The force used in Mr. Antic's  
18 touch on your shoulder, was that greater or  
19 lesser than a handshake?

20 A I'd say similar.

21 Q Similar, but you felt that was  
22 interfering with your ability to arrest Mr.  
23 Sefolosha?

24 A Yes.

25 Q Did you ever go to court once Mr.

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